

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

IN RE: )  
 )  
JOAN BOYD HARDEN, ) **BK No. 04-06325-MH3-7**  
 )  
Debtor(s). )

<b>THE DEADLINE FOR FILING A TIMELY RESPONSE IS: December 7, 2020</b> <b>IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE: December 15, 2020, 9:00 a.m., by AT&amp;T</b> <b>conference line number 1-888-363-4749, Access Code 4511038#.</b>
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**NOTICE OF TRUSTEE'S APPLICATION TO EMPLOY ERICA R. JOHNSON, ATTORNEY AT LAW,**  
**PLLC AS ATTORNEYS FOR TRUSTEE**

Erica R. Johnson, Trustee, has asked the court for the following relief: to employ attorneys for the bankruptcy estate.

**YOUR RIGHTS MAY BE AFFECTED.** If you do not want the court to grant the attached motion by entering the attached order, or if you want the court to consider your views on the motion, then on or before the response date stated above, you or your attorney must:

1. File with the court your response or objection explaining your position. Please note: the Bankruptcy Court for the Middle District of Tennessee requires electronic filing. Any response or objection you wish to file must be submitted electronically. To file electronically, you or your attorney must go to the court website and follow the instructions at: <https://ecf.tnmb.uscourts.gov>.

If you need assistance with Electronic Filing you may call the Clerk's Intake Department at (615)736-5584.

2. Your response must state the deadline for filing responses, the date of the scheduled hearing and the motion to which you are responding.

If a response is filed before the deadline stated above, the hearing will be held at the time and place indicated above. **THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.** You may check whether a timely response has been filed by viewing the case on the court's website at <https://ecf.tnmb.uscourts.gov>.

If you or your attorney does not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter the attached order granting that relief.

This 16<sup>th</sup> day of November, 2020.

/s/ Erica R. Johnson

Erica R. Johnson (BPR No. 30939)

ERICA R. JOHNSON,  
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LAW, PLLC AS ATTORNEYS FOR THE TRUSTEE**

Comes Erica R. Johnson, Trustee, by and through counsel, and respectfully represents the following to the Court:

1. Joan Boyd Harden (the "Debtor") commenced the above-captioned case by filing a voluntary chapter 7 petition on May 24, 2004.

2. Erica R. Johnson is the duly appointed and acting trustee in this chapter 7 case (the "Trustee").

3. The Trustee has a right to representation to assist her in carrying out the trustee's duties.

4. 11 U.S.C. § 327(a) controls the employment of professional persons:

"Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, *that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title.*" (emphasis added)

5. Furthermore, Rule 2014 of Federal Rules of Bankruptcy Procedure outlines the procedure in obtaining court approval:

"Application for an order of employment. An order approving the employment of attorneys, accountants, appraisers, auctioneers, agents, or other professionals pursuant to § 327, § 1103, or § 1114 of the Code shall be made only on application of the trustee or committee. The application shall be filed and, unless the case is a chapter 9 municipality case, a copy of the application shall be transmitted by the applicant to the United States trustee. *The application shall state the specific facts showing the necessity for the employment, the name of the person to be employed,*

*the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.* The application shall be accompanied by a verified statement of the person to be employed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.” (emphasis added)

6. Accordingly, pursuant to 11 U.S.C. § 327(a) and Fed. R. Bankr. P. 2014, the Trustee requests approval of this Court to employ Erica R. Johnson, Attorney at Law, PLLC ("Law Firm") to represent her in the above-captioned case.

7. The Trustee anticipates that the services the Law Firm may render include the following:

- a. Representing the Trustee in the sale of real property, including conducting title searches and preparing documents in connection with the sale;
- b. Preparing documents and pleadings in connection with the liquidation of assets of the estate;
- c. Preparing pleadings and proposed orders to be submitted to the Court;
- d. Identifying and prosecuting claims, contested matters and causes of action on behalf of the estate;
- e. Prosecuting objections to proofs of claims and motions for administrative expenses; and
- f. Providing legal services required in the performance of the Trustee's administrative tasks.

8. The Trustee has selected the Law Firm as counsel because of its attorney's extensive experience and knowledge in the fields of bankruptcy, insolvency, and debtor and creditor rights. Accordingly, the Trustee believes the Law Firm is well qualified to represent her in this case.

9. The current billing rates of the Law Firm are as follows: \$325.00 per hour for time of Erica R. Johnson, Attorney; and \$160.00 per hour for time of paralegals; plus

reimbursement of actual expenses. These rates may be subject to periodic increases. No compensation will be paid to any of these persons from funds of the estate except upon application to and approval by the Court pursuant to 11 U.S.C. §§ 330 and 331, the Federal Rules of Bankruptcy Procedure, the Local Rules of Court, and the United States Trustee Fee Guidelines.

10. Subject to Court's approval, the Law Firm's representation of the Trustee shall commence on the date that this Application is filed with the Court.

11. The Law Firm represents no interest adverse to the Trustee or the estate in the matters upon which it is to be engaged, and such employment is in the best interest of the estate. Further, the Law Firm is a disinterested person within the meaning of 11 U.S.C. §101(14).

12. The Trustee is the owner of the Law Firm.

13. The Trustee asserts that employing the Law Firm is in the best interest of the estate. Among numerous other factors, the Trustee bases this upon the following factors: (a) the Law Firm's attorney has represented other chapter 7 trustees in over 100 cases; therefore, the Law Firm has extensive experience in representing chapter 7 trustees; (b) the rates of the Law Firm are comparable to other attorneys providing the same service in this district, which makes the rates reasonable; (c) the selection of the Law Firm avoids the expense of educating an independent counsel about relevant facts; (d) the nature of the legal work to be performed in this case is such that hiring of outside counsel would not be cost effective; (e) due to the nature of the legal work to be performed in this case and the uncertainty that such representation will result in recovery to pay reasonable attorney fees, it might be difficult to find outside counsel willing to represent the Trustee on a contingency fee basis; and (f) the relationship between attorney and client is highly confidential and the Trustee has confidence that the Law Firm is the best option to represent her in this case.

14. The Trustee shall maintain an internal record of her trustee services in order to be able to provide it upon request by the United States Trustee or any party in interest.

15. The Trustee has no intentions of hiring additional counsel at this time. If the employment of additional counsel is requested, a clear delineation of duties between the law firms will be provided at that time.

WHEREFORE, the Trustee requests that she be authorized to employ Erica R. Johnson,

Attorney at Law, PLLC, as attorneys for the Trustee, and for such other relief as is necessary and appropriate.

/s/ Erica R. Johnson

Erica R. Johnson (BPR No. 30939)

ERICA R. JOHNSON,

ATTORNEY AT LAW, PLLC

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*Attorneys for Trustee*

### **STATEMENT OF DISINTERESTEDNESS**

I, Erica R. Johnson, hereby verify under penalty of perjury that the statements contained in the foregoing Application are true and correct to the best of my knowledge, information, and belief, and that Erica R. Johnson, Attorney at Law, PLLC, has no connection with the Debtor, the creditors, any other party in interest (other than the Trustee), or their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, except for the fact that I am a member of the Standing Chapter 7 Panel of Trustees, which is appointed by the United States Trustee.

/s/ Erica R. Johnson

Erica R. Johnson

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the Application to Employ, *proposed* Order Granting Application to Employ and Notice of Application was served upon the U.S. Trustee, the Debtor, the Debtor's Attorney, all scheduled secured creditors, the 10 largest scheduled unsecured creditors, and to all those requesting notice, as shown on the mailing matrix which is attached to the original of this document and on file in the office of the Clerk of this Court, on November 16, 2020.

/s/ Erica R. Johnson

Erica R. Johnson